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10/017,074	12/07/2001	Sanjay Ranka	Product Engine-008	6239
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LAW OFFICE OF DAVID H. JUDSON			MACASIANO, MARILYN G	
15950 DALLAS PARKWAY				
SUITE 225				
DALLAS, TX 75248				
			ART UNIT	PAPER NUMBER
			3688	
			NOTIFICATION DATE	DELIVERY MODE
			09/12/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mail@davidjudson.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/017,074	<b>Applicant(s)</b> RANKA ET AL.	
	<b>Examiner</b> MARILYN MACASIANO	<b>Art Unit</b> 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 1-73 is/are pending in the application.  
4a) Of the above claim(s) 69-73 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-68 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/13/2002</u> .   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This office action is in response to the communication filed on 7/21/2008.
2. Claims 1- 73 are presented for examination. Claims 1-68 has been rejected and claims 69-71 and 72-73 has been withdrawn.
3. As per 37 CFR 1.121, Applicant has to provide a complete listing of all the claims along with their respective identifiers.

In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered).

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 - 66 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1 and 63 do not expressly or impliedly recite any physical subject matter, tangible or intangible, from one state into another, see MPEP 2106.

Claims 2-62 and 64- 66 are also rejected as each depends upon either claim 1 or 63.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1- 38 and 45- 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ranka et al. (US Patent No. 7,130,808) in view of Benthin et al. (US Pub. No. 2002/0035568).

With respect to claims 1 and 67, Ranka et al. discloses a method and a program for generating a visitor segmentation for a visitor population having a plurality of visitors in response to the performance of different messages for different visitors; said method and program including:

reading message performance results representing message trials and message successes for a message from at least one previous stage in a multi-stage messaging campaign (i.e. reading campaign performance results for messages) (Abstract, col. 1, lines 57-59, col. 2, lines 21-29, col. 4, lines 9-20 and 34-37 and col. 6, lines 60-67);

computing a current message state on the basis of said prior stage message state and said message performance results (i.e. determining a current message state) (col.4, lines 16-24).

While Ranka et al. teaches all the limitations mentioned above, Ranka et al. does not teach generating a visitor segmentation based on said computed current message state and using (i) visitor profile data, (ii) user-defined campaign constraints, and (iii) user-defined campaign objectives. However, Benthin et al. teaches generating a visitor segmentation based on said computed current message state and using (i) visitor profile data, (ii) user-defined campaign constraints, and (iii) user-defined campaign objectives (i.e. segment visitors by profile, campaign constraints and objectives) (paragraphs 12,15,21-22,24;fig. 2A and 41;fig. 3). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to include segmenting visitors by profile, campaign constraints and objectives in order to control an automatic presentation of information to a customer in accordance with said campaign.

With respect to claim 2, Ranka et al. teaches reading campaign performance results for messages and determining current message state but does not teach a message state of message attribute cell. However, Benthin et al. teaches a message state of message attribute cell (paragraph 36). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to include a message state of message attribute cell in the teaching of Ranka et al. in order to identify a better scheduling for the campaign.

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With respect to claim 3, Ranka et al. teaches reading campaign performance results for messages and determining current message state but does not teach single or multiple attribute cell. However, Benthin et al. teaches single or multiple attribute cell (paragraph 36). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to include a single or multiple attribute cell in the teaching of Ranka et al. in order to identify a better scheduling for the campaign.

With respect to claim 4, Ranka et al. teaches reading campaign performance results for messages and determining current message state but does not teach allocating message cells based on segmentation. However, Benthin et al. teaches allocating message cells based on segmentation (paragraph 36). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to include allocating message cells based on segmentation in the teaching of Ranka et al. in order to control an automatic presentation of information to a customer in accordance with said campaign.

With respect to claim 5, Ranka et al. further teaches determining prior message state (col. 4, lines 11-18).

With respect to claim 6, Ranka et al. further teaches determining prior message state (col. 4, lines 11-18) but does not teach allocating message cells based on segmentation. However, Benthin et al. teaches allocating message cells based on segmentation (paragraph 36). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to include allocating message cells based on

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segmentation in the teaching of Ranka et al. in order to control an automatic presentation of information to a customer in accordance with said campaign.

With respect to claims 7-9, Ranka et al. further teaches using allocation as starting point for next iteration (i.e. the newly determined current message state is stored for a next iteration) (col. 4, lines 21-24).

With respect to claims 10-12, Ranka et al. further teaches the types of messages (Abstract, col.6, lines 7-10 and lines 35-39 and col.7, lines 62-67).

With respect to claims 13 and 14, Ranka et al. further teaches the types of performance data (i.e. at the end of each stage, the ad performance results are available for that stage(e.g. newer stage performance , older stage performance)) (col. 6, lines 60-67,col. 11, lines 7-26 and col. 12, lines 9-14).

With respect to claims 15 and 16, Ranka et al. further teaches the types of performance but does not teach a single or multiple attribute cell. However, Benthin et al. teaches single or multiple attribute cell (paragraph 36). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to include a single or multiple attribute cell in the teaching of Ranka et al. in order to identify a better scheduling for the campaign.

With respect to claims 17-19, Benthin et al. further teaches that attributes are all actual or possible visitors (paragraph 12 and 15). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to include attributes

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being all actual or possible visitors in the teaching of Ranka et al. in order to control an automatic presentation of information to a customer in accordance with said campaign.

With respect to claims 20- 25, Benthin et al. further teaches that a cell is visitor attribute(s) and types of visitor information attributes (customer profile may include demographic information, purchasing habits or offline user activities) (paragraph 22). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to include visitor information attributes in the teaching of Ranka et al. in order to control an automatic presentation of information to a customer in accordance with said campaign

With respect to claims 26 and 27, Benthin et al. further teaches stage duration is period of time (i.e. start date and time, end date and time) (paragraph 36). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to include visitor information attributes in the teaching of Ranka et al. in order to identify a better scheduling for the campaign.

With respect to claim 28, Ranka et al. further teaches the types of campaign constraints (i.e. a marketing manager may impose certain constraints on where or when banners may be displayed) (col. 7, lines 12-25).

With respect to claim 29, Ranka et al. further teaches the types of allocation procedure (i.e. an optimization procedure to generate recommended message allocation for a next stage) (col. 3-4, lines 66-3, col. 5, lines 40-47 and col. 7, lines 1-11).



With respect to claims 30-32, Ranka et al. further teaches performance information for template is pooled or not (i.e. reports are analyzed by trained analysis personnel to get new and improved advertisement configuration(e.g. optimize clickthroughs generated by a pool of banner alternatives for a given zone) (col. 2, lines 41-48).

With respect to claims 33-36 and 64-65, Ranka et al. further teaches types of segmentation procedures (i.e. available banners are divided into two or more classes) (col. 13, lines 6-27).

With respect to claim 37, Benthin et al. does not explicitly teaches Akaike Information Criteria used for segmentation but, Benthin et al. teaches a campaign editor accepting user input to define campaign definitions data sets containing parameters for selecting customers according to the profile information about customers stored in the customer profile database (paragraphs 12, 15, 21). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to include Benthin et al's teaching wherein a campaign editor accepting user input to define campaign definitions data sets containing parameters for selecting customers according to the profile information about customers stored in the customer profile database in order to have a method of controlling an automatic presentation of information to a customer.

With respect to claim 38, Benthin et al. further teaches customizing segment using customer's preferences to be presented on the customer's interface. If segment is attractive, customer will probably perform an action such as clicking on the link. This

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action will be recorded and analyze (paragraph 24, 26, 35 and 37). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to include Benthin et al's teaching of customizing segment using customer's preferences to be presented on the customer's interface in order to have a method of controlling an automatic presentation of information to a customer.

With respect to claims 45- 50, Benthin et al. further teaches the types of biases used to choose segmentations (i.e. a customer dialog processor determines what presentation should be automatically presented to a customer and outputs presentation parameters to the customer information server in order that the appropriate HTML segments may be combined or compiled) (paragraphs 12, 15, 24, 40 and 43). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to include Benthin et al's teaching into Ranka et al's teaching; including a customer dialog processor determines what presentation should be automatically presented to a customer and outputs presentation parameters to the customer information server in order that the appropriate HTML segments may be combined or compiled in order to provide the appropriate presentation information to the particular customer.

With respect to claims 51- 58, Benthin et al. further teaches defining processing and attributes for algorithm (i.e. the invention provides a customer behavior analysis module which reviews the customer response data from the customer profile database and matches the same with the campaign definition data sets) (paragraphs 12, 15, 24, 26, 35, 37 and 41). It would have been obvious to a person of ordinary skill in the art at

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the time of Applicant's invention to include Benthin et al's teaching into Ranka et al's teaching; to include a customer behavior analysis module which reviews the customer response data from the customer profile database and matches the same with the campaign definition data sets in order to provide a statistical report on a customer response to each campaign.

With respect to claims 59- 62, Benthin et al. further teaches the intended goal of the invention (i.e. method for controlling an automatic, electronic presentation to a customer which relates further to a marketing campaign manager for business and consumer electronic commerce marketing involving automatic presentations to customers) (paragraphs 2 and 12). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to include Benthin et al's teaching into Ranka et al's teaching; to include the intended goal of the invention in order to provide the desired information by customers.

With respect to claim 63, Ranka et al. further teaches reading campaign performance results for messages (Abstract, col. 1, lines 57-59, col. 2, lines 21-29, col. 4, lines 9-20 and 34-37 and col. 6, lines 60-67); determining current message state (col.4, lines 16-24); determining prior message state (col.4, lines 11- 18); use of allocation as starting point for next iteration (col.4, lines 21-24); types of messages (Abstract, cols. 6, lines 7- 10; lines 35- 59 and col. 7, lines 62- 67); types of performance data (col.11, lines 7- 26 and col. 12, lines 9- 14); types of campaign constraints (col. 7, lines 12- 25); types of allocation procedures (cols. 3- 4, lines 66- 3, col. 5, lines 40- 47

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and col. 7, lines 1- 11); performance information for template is pooled or not (col.2, lines 41- 48) and types of segmentation procedures (col. 13, lines 6- 27).

While Ranka et al. teaches the limitations mentioned above, Ranka et al. does not teach segment visitors by profile; campaign constraints and objectives; allocate message cells based on segmentation; single or multiple attribute cell; attributes are all actual or possible visitors; cell is a visitor attribute(s) and types of visitor information attributes. However, Benthin et al. teaches segment visitors by profile; campaign constraints and objectives (paragraphs 12, 15, 21- 22, 24; fig. 2A and 41; fig. 3). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to include segmenting visitors by profile, campaign constraints and objectives in order to control an automatic presentation of information to a customer in accordance with said campaign.

Benthin et al. teaches allocating message cells based on segmentation (paragraph 36). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to include allocating message cells based on segmentation in the teaching of Ranka et al. in order to control an automatic presentation of information to a customer in accordance with said campaign.

Benthin et al. teaches single or multiple attribute cell (paragraph 36). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to include a single or multiple attribute cell in the teaching of Ranka et al. in order to identify a better scheduling for the campaign.

Benthin et al. further teaches that attributes are all actual or possible visitors (paragraph 12 and 15). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to include attributes being all actual or possible visitors in the teaching of Ranka et al. in order to control an automatic presentation of information to a customer in accordance with said campaign.

Benthin et al. further teaches that a cell is visitor attribute(s) and types of visitor information attributes (customer profile may include demographic information, purchasing habits or offline user activities) (paragraph 22). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to include visitor information attributes in the teaching of Ranka et al. in order to control an automatic presentation of information to a customer in accordance with said campaign

With respect to claim 66, Benthin et al. further teaches a campaign editor accepting user input to define campaign definitions data sets containing parameters for selecting customers according to the profile information about customers stored in the customer profile database (paragraphs 12, 15, 21). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to include Benthin et al.'s teaching wherein a campaign editor accepting user input to define campaign definitions data sets containing parameters for selecting customers according to the profile information about customers stored in the customer profile database in order to have a method of controlling an automatic presentation of information to a customer.

Benthin et al. further teaches customizing segment using customer's preferences to be presented on the customer's interface. If segment is attractive, customer will probably perform an action such as clicking on the link. This action will be recorded and analyze (paragraph 24, 26, 35 and 37). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to include Benthin et al's teaching of customizing segment using customer's preferences to be presented on the customer's interface in order to have a method of controlling an automatic presentation of information to a customer.

With respect to claim 68, Benthin et al. further teaches a message state of message attribute cell (paragraph 36). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to include a message state of message attribute cell in the teaching of Ranka et al. in order to identify a better scheduling for the campaign.

Benthin et al. teaches single or multiple attribute cell (paragraph 36). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to include a single or multiple attribute cell in the teaching of Ranka et al. in order to identify a better scheduling for the campaign.

7. Claims 39- 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ranka et al. (US Patent No. 7,130,808) in view of Benthin et al. (US Pub. No. 2002/0035568) and further in view of Grossman et al. (U.S. Patent No. 5,889,799).

With respect to claims 39- 44, Benthin et al. further teaches customizing segment using customer's preferences to be presented on the customer's interface. If segment is attractive, customer will probably perform an action such as clicking on the link. This action will be recorded and analyze (paragraph 24, 26, 35 and 37). Benthin et al. does not teach values for p-value. However, Grossman et al. teaches values for p-value (col. 8, lines 38- 54). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to include values for p-value in order to determine processing priority and has an associated weighting function.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Tsutani et al. (U.S. Pub. No. 2003/0110080) System and method for optimizing an advertisement to be distributed to a site on internet.

b. Galperin et al. (U.S. Patent No. 6,993,493) Method for optimizing net present value of a cross-selling marketing campaign.

### **POINT OF CONTACT**

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARILYN MACASIANO whose telephone number is (571)270-5205. The examiner can normally be reached on 5/4/9 8:00-5:30 Mon.-Thur. 8:00-4:30 Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Racquel Alvarez can be reached on (571)272-6715. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raquel Alvarez/  
Primary Examiner, Art Unit 3688

\*/M. M./  
Examiner, Art Unit 3688\*\*



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